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Honorable Wallace K. Brown
Probate Judge of Russell County
P. O. Box 700
Phenix City, AL 36868-0700

Probate Judges - Mortgages -
Fees - Recordation of Docu-
ments

No additional fee can be charged by probate judge for noting on an original mortgage the book and page where a subsequent assignment is recorded, since such notation is not required by law.

Section 12-19-90(b)(22), pre-scribes a fee of \$2.50 per page regardless of the number of mortgages assigned by the instrument.

Dear Judge Brown:

You requested an opinion of this office concerning the fees to be charged under Act No. 84-446(b)(24) [§12-19-90(b)(24), Code of Alabama 1975, as last amended.]. Your request states as follows:

This is a request for an opinion on fees applicable to assignments of mortgages, etc. on interest of real estate other than recording fees. The specific question is whether or not there should be an additional charge for noting original documents as to assignment, and in the cases of blanket assignment (more than one document to each page of

assignments) should there be a charge per assigned document?

There has been a discussion as to whether or not the Probate Judge's file clerk is required to make note on the assigned documents (which provides a clear roadmap when a title search is made) of the assignment affecting that particular instrument. The opinion being that since that requirement is not binding, the fee of additional notation would not apply.

I must agree that since the practice of noting on the original mortgage the book and page where a subsequent assignment is recorded is not required by law, and there is no additional fee authorized for making such notation, none can be charged. Nor is this a question of additional indexing under §12-19-90(b)(24), supra.

I presume that your second question concerns an assignment by a mortgagee to a third party of its interest in several different mortgages. As an example, the mortgagee may assign his interest in a mortgage on Blackacre from John Doe, and his interest in a mortgage on Whiteacre from Bill Jones, and his interest in a mortgage on Greenacre from Richard Rowe, all in one instrument of assignment to one assignee. It is my opinion that there should not be a charge per assigned mortgage. Section 12-19-90(b)(22), Code of Alabama 1975, prescribes a fee of \$2.50 per page regardless of the number of mortgages assigned by the instrument.

Sincerely yours,

CHARLES A. GRADDICK
Attorney General
By-



CHARLES E. CRUMBLEY
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